

Montana Department of Natural Resources and Conservation  
Water Resources Division  
Water Rights Bureau

**ENVIRONMENTAL ASSESSMENT**  
**For Routine Actions with Limited Environmental Impact**

**Part I. Proposed Action Description**

1. Applicant/Contact name and address: Avis, Gregory & Anne R. Trust and Five Zero Five Ventures, LLC
2. Type of action: Application to change a water right # 43A 30052172
3. Water source name: Brackett Creek
4. Location affected by project: T2N, R8E, Sec. 31, 32, and 33 & T1N, R8E, Sec. 5, 3, and 2, Park County.
5. Narrative summary of the proposed project, purpose, action to be taken, and benefits:

The purpose of this application is to temporarily change the duty of water from irrigation to instream flow. Irrigation will be discontinued on 350 acres for a period of ten years with an option to renew. The instream use of this right is recognized as a benefit to the fishery population of Brackett Creek. The DNRC shall issue a change authorization if the applicant proves the criteria in §85-2-402, MCA, are met.

6. Agencies consulted during preparation of the Environmental Assessment:  
(include agencies with overlapping jurisdiction)

Dept. of Environmental Quality Website – Clean Water Act Information Center  
MT. National Heritage Program Website - Species of Concern  
USDI Fish & Wildlife Service Website - Endangered and Threatened Species  
USDA Natural Resources Conservation Service – Web Soil Survey  
MT DFWP- Dewatered Streams List

**Part II. Environmental Review**

1. **Environmental Impact Checklist:**

**PHYSICAL ENVIRONMENT**

**WATER QUANTITY, QUALITY AND DISTRIBUTION**

**Water quantity** - Assess whether the source of supply is identified as a chronically or periodically dewatered stream by DFWP. Assess whether the proposed use will worsen the already dewatered condition.

*Determination:* No impact identified.

Brackett Creek is listed on the Montana Department of Fish, Wildlife and Parks as being a dewatered concern area. This application was filed by the Applicant to leave water in Brackett Creek for the benefit of the fishery resource.

**Water quality** - Assess whether the stream is listed as water quality impaired or threatened by DEQ, and whether the proposed project will affect water quality.

*Determination:* No impact identified.

Brackett Creek has not been listed on the DEQ, 303(d) list. Water quality will not be impacted by this project.

**Groundwater** - Assess if the proposed project impacts ground water quality or supply. If this is a groundwater appropriation, assess if it could impact adjacent surface water flows.

*Determination:* No impact identified.

This instream use of surface water will have no impact on groundwater quality or supply.

**DIVERSION WORKS** - Assess whether the means of diversion, construction and operation of the appropriation works of the proposed project will impact any of the following: channel impacts, flow modifications, barriers, riparian areas, dams, well construction.

*Determination:* No impact identified.

Water will be left instream to benefit the fishery resource.

#### **UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES**

**Endangered and threatened species** - Assess whether the proposed project will impact any threatened or endangered fish, wildlife, plants or aquatic species or any "species of special concern," or create a barrier to the migration or movement of fish or wildlife. For groundwater, assess whether the proposed project, including impacts on adjacent surface flows, would impact any threatened or endangered species or "species of special concern."

*Determination:* No impact identified.

The Montana Natural Heritage Program was contacted. The Greater Sage-Grouse and the Yellowstone Cutthroat Trout are species of concern in this area. Bracket Creek supports Yellowstone Cutthroat Trout in the project area. This species may benefit from leaving water instream for the fishery resource.

**Wetlands** - Consult and assess whether the apparent wetland is a functional wetland (according to COE definitions), and whether the wetland resource would be impacted.

*Determination:* No impact identified.

No existing wetlands were identified.

**Ponds** - For ponds, consult and assess whether existing wildlife, waterfowl, or fisheries resources would be impacted.

*Determination:* No impact identified.  
This project does not involve a pond.

**GEOLOGY/SOIL QUALITY, STABILITY AND MOISTURE** - Assess whether there will be degradation of soil quality, alteration of soil stability, or moisture content. Assess whether the soils are heavy in salts that could cause saline seep.

*Determination:* No impact identified.  
Leaving more water instream to benefit the fishery will have no impact on the soil.

**VEGETATION COVER, QUANTITY AND QUALITY/NOXIOUS WEEDS** - Assess impacts to existing vegetative cover. Assess whether the proposed project would result in the establishment or spread of noxious weeds.

*Determination:* No impact identified.  
Leaving more water instream to benefit the fishery will have no impact on vegetation or the spread of noxious weeds.

**AIR QUALITY** - Assess whether there will be a deterioration of air quality or adverse effects on vegetation due to increased air pollutants.

*Determination:* No impact identified.  
There will be no significant impact on air quality relating to this proposed project.

**HISTORICAL AND ARCHEOLOGICAL SITES** - Assess whether there will be degradation of unique archeological or historical sites in the vicinity of the proposed project if it is on State or Federal Lands. If it is not on State or Federal Lands simply state NA-project not located on State or Federal Lands.

**Determination:** NA-project not located on State or Federal Lands.

**DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AND ENERGY** - Assess any other impacts on environmental resources of land, water and energy not already addressed.

*Determination:* No additional impacts on other environmental resources were identified.

<b>HUMAN ENVIRONMENT</b>
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**LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS** - Assess whether the proposed project is inconsistent with any locally adopted environmental plans and goals.

*Determination:* No impact identified.

The proposed project is not inconsistent with locally adopted environmental plans or goals. The project supports the instream fishery resource.

**ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES** - *Assess whether the proposed project will impact access to or the quality of recreational and wilderness activities.*

*Determination:* No impacts identified  
This project is located on private property.

**HUMAN HEALTH** - *Assess whether the proposed project impacts on human health.*

*Determination:* No impact identified.  
No impact on human health is expected.

**PRIVATE PROPERTY** - *Assess whether there are any government regulatory impacts on private property rights.*

Yes\_\_\_ No X\_\_\_ *If yes, analyze any alternatives considered that could reduce, minimize, or eliminate the regulation of private property rights.*

*Determination:* No impacts identified

**OTHER HUMAN ENVIRONMENTAL ISSUES** - *For routine actions of limited environmental impact, the following may be addressed in a checklist fashion.*

*Impacts on:*

- |   |                       |
|---|-----------------------|
| (a) <u>Cultural uniqueness and diversity?</u>                   | No impacts identified |
| (b) <u>Local and state tax base and tax revenues?</u>           | No impacts identified |
| (c) <u>Existing land uses?</u>                                  | No impacts identified |
| (d) <u>Quantity and distribution of employment?</u>             | No impacts identified |
| (e) <u>Distribution and density of population and housing?</u>  | No impacts identified |
| (f) <u>Demands for government services?</u>                     | No impacts identified |
| (g) <u>Industrial and commercial activity?</u>                  | No impacts identified |
| (h) <u>Utilities?</u>   | No impacts identified |
| (i) <u>Transportation?</u>                                      | No impacts identified |
| (j) <u>Safety?</u>  | No impacts identified |
| (k) <u>Other appropriate social and economic circumstances?</u> | No impacts identified |

2. ***Secondary and cumulative impacts on the physical environment and human population:***

Secondary Impacts No secondary impacts have been identified

Cumulative Impacts No cumulative impacts have been identified

3. ***Describe any mitigation/stipulation measures:*** Mitigation or stipulations are not planned at this time.

4. ***Description and analysis of reasonable alternatives to the proposed action, including the no action alternative, if an alternative is reasonably available and prudent to consider:*** If this change is not authorized, Brackett Creek will continue to provide the current spawning habitat. If the fishery is to be improved, the temporary instream lease is the only option.

***PART III. Conclusion***

1. ***Preferred Alternative*** The preferred alternative is the proposed alternative

2. ***Comments and Responses*** None Received.

3. ***Finding:***

Yes\_\_\_ No\_x\_ Based on the significance criteria evaluated in this EA, is an EIS required?

*If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action:*

None of the identified impacts for any of the alternatives are significant as defined in ARM 36.2.524.

*Name of person(s) responsible for preparation of EA:*

*Name:* Porter Dassenko

*Title:* Water Resource Specialist

*Date:* 8/30/12